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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,962	10/24/2001	Matthew Heidner	1001.1479101	8725
28075	7590	01/23/2006	EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			THALER, MICHAEL H	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/032,962

Applicant(s)

HEIDNER, MATTHEW

Examiner

Michael Thaler

Art Unit

3731

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 10 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. Applicant's reply has overcome the following rejection(s): _____.
 6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see the attached pages.
 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. Other: _____.

Michael Thaler
Primary Examiner
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Applicant argues that a balloon waist is only the portion of the balloon material sealingly secured to an underlying tubular member. In the embodiment of figures 1-6, the portion of the Shoup et al. balloon 10 between areas 19 and 29 may fairly be considered to be a waist since this portion is secured at 19 to an underlying tubular member 17 and also secured at terminus 29 to an underlying tubular member 13 (as indicated in col. 6, lines 6-8). Thus, the entire section between these two areas 19 and 29 may fairly be considered a waist. In any event, the claims are drawn only to a balloon rather than a balloon catheter (which would include a balloon in combination with an underlying tubular member). Thus, any portion of a balloon which has a reduced diameter and which is capable of being secured to an underlying tubular member (and thus act as a waist) may fairly be considered a waist. The examiner has not suggested that it would have been obvious to subject the Shoup et al. balloon 10 to thermal reformation and to obstruct the orifices 26, 27 by the melted balloon material flowing into voids 26, 27 due to the thermal reformation. Rather, the examiner has indicated that the Shoup et al. balloon 10 is inherently capable of being subjected to thermal reformation and if so subjected, the melted balloon material would inherently flow into voids 26, 27, thus meeting the claimed limitations.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

mht
1/19/06



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731